



## UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents, Box PCT  
United States Patent and Trademark Office  
Washington, D.C. 20231  
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U.S. APPLICATION NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
09/786105	SHIPMAN	R VGEN.P-005
INTERNATIONAL APPLICATION NO.		
PCT/CA99/01177		
I.A. FILING DATE	PRIORITY DATE	
10 DEC 99	11 DEC 98	

DATE MAILED 02 APR 2001

## NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)

1. The following items have been submitted by the applicant or the IB to the United States Patent and Trademark Office as ☐ a Designated Office (37 CFR 1.494) ☒ an Elected Office (37 CFR 1.495):
- ☒ U.S. Basic National Fee.
  - ☒ Copy of the international application.
  - ☒ Oath or Declaration of inventors(s).
  - ☐ Copy of Article 19 amendments.
  - ☒ Priority Document.
  - ☒ The International Preliminary Examination Report in English and its Annexes, if any.
  - ☐ Translation of Annexes to the International Preliminary Examination Report into English.
  - ☐ Indication of Small Entity Status.
  - ☐ Translation of the international application into English.
  - ☐ Translation of Article 19 amendments into English.
  - ☐ Other:
2. ☐ Applicant has requested early processing under 35 U.S.C. 371(f) but has not filed the following indicated items and/or the indicated items in paragraph 3 below. The Basic National Fee and the copy of the international application must be filed prior to 20 or 30 months from the priority date to avoid abandonment.
- ☐ U.S. Basic National Fee.
  - ☐ Copy of the international application.
3. The following items **MUST** be furnished within the period set forth below in order to complete the requirements for acceptance under 35 U.S.C. 371:
- ☐ a. Translation of the application into English. A processing fee will be required if submitted later than the appropriate 20 or 30 months from the priority date.
  - ☐ The current translation is defective for the reasons indicated on the attached Notice of Defective Translation.
  - ☐ b. Processing fee for providing the translation of the application and/or the Annexes later than the appropriate 20 or 30 months from the priority date (37 CFR 1.492(f)).
  - ☐ c. Oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), properly identifying the application (preferably by the International application number and international filing date). A surcharge will be required if submitted later than the appropriate 20 or 30 months from the priority date.
  - ☐ The current oath or declaration does not comply with 37 CFR 1.497(a) and (b) for the reasons indicated on the attached PCT/DO/EO/917.
  - ☐ d. Surcharge for providing the oath or declaration later than the appropriate 20 or 30 months from the priority date (37 CFR 1.492(e)).
4. Additional claim fees of \$\_\_\_\_\_ as a ☐ large entity ☐ small entity, including any required multiple dependent claim fee, are required. Applicant must submit the additional claim fees or cancel the additional claims for which fees are due (37 CFR 1.492(g)). See attached PTO-875.
5. ☒ Applicant has not submitted the required sequence listing pursuant to 37 CFR 1.821-1.825. See attached PCT/DO/EO/920.
- ALL OF THE ITEMS SET FORTH IN 3(a)-3(d), 4 AND 5 ABOVE MUST BE SUBMITTED WITHIN TWO (2) MONTHS FROM THE DATE OF THIS NOTICE OR BY 22 OR 32 MONTHS (where 37 CFR 1.495 applies) FROM THE PRIORITY DATE FOR THE APPLICATION, WHICHEVER IS LATER. FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT.**
- The time period set above may be extended by filing a petition and fee for extension of time under the provisions of 37 CFR 1.136(a).
6. If box 3a or 3c is checked, a translation of the Annexes **MUST** be submitted no later than the time period set above or the Annexes will be cancelled. A processing fee will be required if submitted later than 20 or 30 months from the priority date.
7. ☐ The Article 19 amendments are cancelled since a translation was not provided by the appropriate 20 (37 CFR 1.494(d)) or 30 (37 CFR 1.495(d)) months from the priority date.

Applicant is reminded that any communication to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above. (37 CFR 1.5)

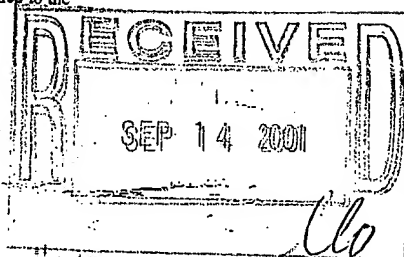
**A copy of this notice MUST be returned with this response.**

Enclosed: ☐ PCT/DO/EO/917 ☐ Notice of Defective Translation  
☐ PTO-875 ☐ PCT/DO/EO/920

FORM PCT/DO/EO/935 (March 2001)

Pat Booker, Paralegal

Telephone: (703)305-3738



REPORTING LETTER \_\_\_\_\_

COMPUTER DOCKET \_\_\_\_\_

PAPER DOCKET \_\_\_\_\_



JC14 PCT/PTO 8 SEP 2001

PCT

VGEN.P-055-WO  
PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Shipman  
Serial No.: 09/786,105  
Filed: 26 February 2001  
For: Method and Kit for the Characterization of Antibiotic-Resistance Mutations in Mycobacterium tuberculosis

RESPONSE TO NOTICE REGARDING MISSING REQUIREMENTS

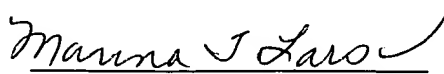
Responsive to the Notice Regarding Missing Requirements allegedly mailed on April 2, 2001 for the above-captioned application, Applicants enclose a sequence listing diskette and a paper copy of the sequence listing for the above-referenced application. The undersigned certifies that the contents of the paper copy and the diskette are the same. Please enter the paper copy of the sequence listing at the appropriate location in the application.

Applicants request any extension of time which may be deemed necessary for the response to be deemed timely, and authorize the Commissioner to charge the fee to Deposit Account No. 15-0610. However, Applicants respectfully submit that in the circumstances, no fee should be required.

Applicants' attorneys never received the mailing of the Notice of Missing Requirements. The file jackets related to this application and all counterparts thereof have been checked and the paper was not found in any of the files. In view of the fact that the Patent Office incorrectly entered the attorney docket number, the file jackets for all files with the incorrect attorney docket number were also checked, and the paper was not found. When mailed is received, it is opened, and all docketable items are entered into a paper docket listing for the date on which they are due. A check of this paper docket listing for June 2, 2001 and for October 2, 2001 shows no entry for the above-file under either the correct or the incorrect file number.

I hereby certify that this paper and the attachments named herein are being deposited with the United States Postal Service by first class mail, postage pre-paid, in an envelope addressed to the Commissioner of Patents and Trademarks on September 17, 2001

September 17, 2001  
Date of Signature

  
Marina T. Larson, PTO # 32,038

(Exhibit A) The file would next be passed to computer docketing for entry of the docket entry in the computerized system. A print out of the history for the relevant file shows that no docket entry was made. (Exhibit B).

Applicants learned that a Notice of Missing Requirements was issued through a routine status check of the PAIR system on August 27, 2001. A telephone call was placed on that day to the PCT Office at the USPTO and a message was left. (Exhibit C). This call was not returned. A further call was placed in September 6, 2001 at which time Applicants were informed that the missing requirement was the sequence listing, and told that a copy of the paper would be faxed. On September 7 and September 10, 2001, follow-up calls were made requesting that a copy of the paper be faxed. Finally, on September 14, 2001, a faxed copy of the Notice of Missing Requirements was received.

Applicants submit that they should not be required to pay any extension fee under these circumstances. Had Applicants failed to perform the status check prior to October 2, 2001, the application would have been abandoned. The showing above would have been sufficient however to obtain reinstatement of the application (MPEP § 711.03(c)II) and the extension fee would not have been required. Thus, charging the extension fee to Applicants in the present case would be to penalize them for being vigilant and maintaining a status watch on the application and responding prior to the end of the period for response to the Notice of Missing Requirements.

Respectfully submitted,



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